HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 1803 (S/S) 2005

Sureshanand Sharma S/o Late Sri Hari Singh,
Assistant Manager Depot, Food Corporation of India,
Food Storage Depot,
District Pithoragarh. --- Petitioner.

Vs.

1. Food Corporation of India, through
its Managing Director,
16-20 Barakhamba Lane, New Delhi.
2. Senior Regional Manager, Food Corporation of India,
98, Nashvilla Road, District Dehradun.
3. Zonal Manager (North),
Food Corporation of India, Noida,
4. District Manager, Food Corporation of India,
8, Astley Hall, District Dehradun. --- Respondents.

Sri Sharad Sharma, learned counsel for the petitioner.
Sri T.A. Khan, learned counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Sharad Sharma, learned counsel for the petitioner and Sri Rajesh Joshi, Adv. holding brief of Sri T.A. Khan, learned counsel for the respondents.

By means of this writ petition, the petitioner has prayed to issue a writ, order or direction in the nature of mandamus directing the respondent no. 1 to decide the petitioner's appeal within a stipulated time and further to direct the respondents to consider petitioner's claim for promotion to the next higher scale of Category-I Officer for which D.P.C. is going to be held in the moth of December 2005 itself.

The petitioner who was recruited with the respondents as Assistant Grade- III in the year 1976 was promoted as Assistant Manager in the year 2000. On 27.02.2004, when the petitioner was working as Assistant Manager Depot FDS, Rishikesh, he was placed under suspension by the respondent no. 2. Inquiry was conducted against the petitioner and after the inquiry, punishment order was passed by respondent no.3 on

06.09.2005 whereby he imposed punishment of reduction to the lower stage in the time scale for a period of 5 years and further with a restriction of not earning the increments of pay. Against the order dated 06.09.2005 awarding punishment to the petitioner, the petitioner preferred statutory appeal before the respondent no. 1 on 24.10.2005 which is still pending before him.

Submission of the petitioner is that the D.P.C. is going to be held in the month of December 2005 for promotion to the post of Category-I Officer and since the appeal preferred by the petitioner is pending, hence the respondents may not consider his candidature for promotion to the next higher scale.

During the course of arguments, counsel for the petitioner confined his prayer to the extent that the respondent no. 1 be directed to decide his appeal at the earliest and further the respondents be directed to consider the candidature of the petitioner for promotion to the post of Category-I Officer, however the result may not be declared and be kept in a sealed cover in view of the Hon'ble Apex Court judgment reported in AIR 1991 (SC) 2010 Union of India vs. K.V. Janki Raman.

In the circumstances, I find it just and proper to direct the respondent no.1 to decide the appeal of petitioner preferred against the order dated 06.09.2005 within a period of three weeks from the date of production of certified copy of this order and further to consider the candidature of the petitioner for the post of Category-I Officer however, the result of the same shall not be declared and shall be kept in a sealed cover till the final decision is taken in the appeal.

With these directions, the writ petition is finally disposed of.

(M.M. Ghildiayl, J.)

December 7, 2005:
NCM: